

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NOREEN E. DELGAUDIO,

Plaintiff(s),

ANSWER & JURY DEMAND

vs.

Civil Action No.: 07-CV-0572

COHEN AND SLAMOWITZ, LLP

Defendant(s).

Defendant, COHEN AND SLAMOWITZ, LLP, by and through its attorneys, Smith, Sovik, Kendrick, and Sugnet, P.C., in answer to plaintiff's complaint, state the following:

1. This paragraph contains plaintiff's characterizations of her claims. No response is required; otherwise **DENIES** the allegations contained in paragraph "1" of plaintiff's complaint.
2. Paragraphs "2", "3" and "4" contain conclusions of law. No response is required; otherwise **DENIES** the allegations contained in paragraph "2", "3", and "4" of plaintiff's complaint.
3. **DENIES KNOWLEDGE AND INFORMATION** sufficient to form a belief as to the allegations contained in paragraphs "5", "8", "9", "16", "17", "18", "19", "20", "21", "22", "23", "27", and "29" of plaintiff's complaint.
4. **ADMITS** the allegations contained in paragraphs "6", "7", "10", "11", "12", "13", "14", "15", and "26" of plaintiff's complaint.
5. **DENIES** the allegations contained in paragraphs "24" and "30" of the plaintiff's complaint.

6. **DENIES** the allegations contained in paragraph "25" of the plaintiff's complaint except **ADMITS** that over \$5,000.00 remains due on the subject debt.

7. **DENIES** the allegations contained in paragraph "28" of the plaintiff's complaint except **ADMITS** that over \$5,000.00 remains due on the subject judgment.

8. **REPEATS AND REALLEGES** each and every response to the allegations contained in paragraphs "1" through "30" of plaintiffs' complaint with the same force and effect as if repeated herein at length.

9. **ADMITS** the allegations contained in paragraphs "32", "33", "34", "35", "36", and "37" of the plaintiff's complaint.

10. **DENIES KNOWLEDGE AND INFORMATION** sufficient to form a belief as to the allegations contained in paragraphs "38", "39", "40", "41", "42", "43", "44", "45", and "48" of the plaintiff's complaint.

11. **DENIES** the allegations contained in paragraphs "46" and "50" of the plaintiff's complaint.

12. **DENIES** the allegations contained in paragraphs "47" and "49" of the plaintiff's complaint except **ADMITS** that over \$1,200.00 remains due on the subject debt.

13. **REPEATS AND REALLEGES** each and every response to the allegations contained in paragraphs "1" through "50" of plaintiffs' complaint with the same force and effect as if repeated herein at length.

14. **DENIES** the allegations contained in paragraphs "52" and "53" of the plaintiff's complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

15. The amended complaint fails to state a cause of action upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

16. Defendant did not violate, in whole or in part, any provision of the FDCPA.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

17. To the extent that a violation of any provision of 15 U.S.C. 1692 occurred, such violation was not intentional and resulted from a bona fide error notwithstanding reasonable procedure adopted to avoid any such error.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

18. Plaintiff is precluded by the doctrine of waiver and estoppel.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

19. Plaintiff has failed to mitigate her damages.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

20. Plaintiff's complaint, in whole or in part, fails to state a claim upon which relief can be granted.

JURY DEMAND

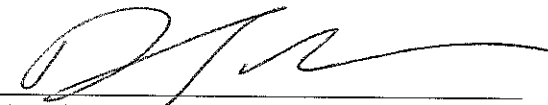
Demand is made for a jury trial on all issues.

WHEREFORE, defendant demands judgment dismissing plaintiff's complaint, together with the costs and disbursements of this action.

DATED: October 4, 2007

SMITH, SOVIK, KENDRICK & SUGNET, P.C.

By: _____



Daniel R. Ryan
Attorneys for Defendant
250 South Clinton Street, Suite 600
Syracuse, New York 13202
(315) 474-2911

TO: Kenneth R. Hiller, Esq.
Attorneys for Plaintiff
2001 Niagara Falls Boulevard
Amherst, New York 14228
(716) 564-3288